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September 27, 2011

VIA ECF AND REGULAR MAIL

Honorable Dennis M. Cavanaugh, U.S.D.J.
United States District Court
District of New Jersey
United States P.O. & Courthouse
One Federal Square
Newark, New Jersey 07101

**Re: Emmanuel Otoigiakhi v. AAMCO Transmissions, Inc.
Civil Action No. 11-4620 (DMC) (JAD)**

Dear Judge Cavanaugh:

We represent Defendant AAMCO Transmissions, Inc. ("AAMCO") in the above-referenced matter. We write further to Plaintiff's letter of September 22, 2011, (ECF No. 9), wherein counsel requested an extension of time to file opposition to AAMCO's pending motion for a Preliminary Injunction. (ECF No. 6). As Plaintiff has failed to file any opposition to AAMCO's pending motion, timely or otherwise, we respectfully request that the Court grant AAMCO's motion for a Preliminary Injunction.

By way of background, this matter involves the termination of a Franchise Agreement, dated November 6, 2006, between AAMCO and Plaintiff Emmanuel Otoigiakhi ("Mr. Otoigiakhi"), which allowed Mr. Otoigiakhi to operate an AAMCO automobile repair center in Perth Amboy, New Jersey ("the Center"). (Counterclaim, ECF No. 5, ¶ 5.) Although, Mr. Otoigiakhi commenced this litigation alleging an improper termination of the Franchise Agreement, AAMCO has since asserted counterclaims for, among other things, breach of contract and fraud arising from Mr. Otoigiakhi's fraudulent and deceitful conduct in mis-reporting the sales and/or collections made at the Center and, in turn, the franchise fees due and owing to AAMCO. (*Id.*, ¶ 55.)

AAMCO's pending motion for a Preliminary Injunction, which is returnable before Your Honor on October 3, 2011, seeks the entry of an Order preventing Mr. Otoigiakhi from, among other things, (1) utilizing the AAMCO trademarks; (2) operating the Center as an AAMCO, and (3) running a transmission repair business in or around the location where the Center was previously located. (*See* Proposed Order, ECF No. 6-7.) As outlined, in the Memorandum of Law in Support of AAMCO Transmissions, Inc.'s Motion for a Preliminary Injunction Against Plaintiff Emmanuel Otoigiakhi, dated September 6, 2011, (ECF No. 6-1), AAMCO is entitled to the requested relief. *See, e.g., Stackhouse v. Mazurkiewicz*, 951 F.2d 29, 30 (3d Cir. 1991) (holding that Court must address the merits of unopposed motions.)

Plaintiff's deadline to file an opposition to AAMCO's motion was September 19, 2011. Plaintiff let this deadline pass without contacting the undersigned for consent to an adjournment, requesting an adjournment from the Court or filing any opposition. Instead, Plaintiff filed a letter with the Court on September 22, 2011, after his deadline to file opposition had expired,

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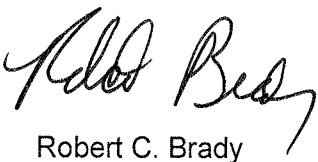
requesting an extension until September 26, 2011 to file opposition and a cross-motion. (ECF Nos. 8, 9.)

September 26, 2011 has now passed without Plaintiff filing any opposition with the Court. Moreover, Plaintiff's counsel has not returned any of the undersigned's attempted telephone communications regarding this issue, or otherwise. As such, it appears that Plaintiff has either decided not to oppose AAMCO's application on the merits, or is somehow trying to delay the entry of an Order precluding his further operation of the Center.¹

As such, for the foregoing reasons, and for those set forth in AAMCO's Memorandum of Law, dated September 6, 2011, it is respectfully requested that the Court grant AAMCO's unopposed Motion for a Preliminary Injunction at Your Honor's earliest convenience.

Please do not hesitate to contact me if Your Honor has any questions, or if I can be of any assistance with the resolution of this matter.

Respectfully submitted,



Robert C. Brady

cc: Michael R. Speck, Esq. (via ECF and regular mail)
Timothy J Duva, Esq. (via ECF and e-mail)

¹ Plaintiff was also required to answer or otherwise move with regard to the Counterclaim on or before September 21, 2011. He failed to do so and Plaintiff's counsel has not returned my telephone messages or correspondence related to his impending default. As such, AAMCO has had no alternative, but to apply for an entry of default against Mr. Otoigiakhi pursuant to Federal Rule of Civil Procedure 55(a). (ECF No. 10).